

# **EXHIBIT K**



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
16/586,528	09/27/2019	Avi Kopelman	11353.025US4	9600
161191	7590	09/03/2020	EXAMINER	
FisherBroyles, LLP - Align Technology, Inc.			MAPAR, BIJAN	
945 East Paces Ferry Road NE			ART UNIT	
Suite 2000			PAPER NUMBER	
Atlanta, GA 30326			2128	
			NOTIFICATION DATE	
			DELIVERY MODE	
			09/03/2020	
			ELECTRONIC	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing@fisherbroyles.com

patent@fisherbroyles.com

<b>Corrected</b> <b>Notice of Allowability</b>	<b>Application No.</b> 16/586,528	<b>Applicant(s)</b> Kopelman, Avi	
	<b>Examiner</b> BIJAN MAPAR	<b>Art Unit</b> 2128	<b>AIA (FITF) Status</b> No

  

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the QPIDS filed 7/28/2020.  
☐ A declaration(s)/affidavit(s) under **37 CFR 1.130(b)** was/were filed on \_\_\_\_\_.

2. ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on \_\_\_\_\_; the restriction requirement and election have been incorporated into this action.

3. ☒ The allowed claim(s) is/are 1-20 . As a result of the allowed claim(s), you may be eligible to benefit from the **Patent Prosecution Highway** program at a participating intellectual property office for the corresponding application. For more information, please see [http://www.uspto.gov/patents/init\\_events/pph/index.jsp](http://www.uspto.gov/patents/init_events/pph/index.jsp) or send an inquiry to [PPHfeedback@uspto.gov](mailto:PPHfeedback@uspto.gov).

4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

**Certified copies:**

a) ☐ All      b) ☐ Some      \*c) ☐ None of the:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_ .

3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_ .

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.  
☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_ .

**Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**

6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

  

**Attachment(s)**

1. <input type="checkbox"/> Notice of References Cited (PTO-892)	5. <input type="checkbox"/> Examiner's Amendment/Comment
2. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date 5/29/2020, 7/28/2020.	6. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance
3. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material _____.	7. <input type="checkbox"/> Other _____.
4. <input type="checkbox"/> Interview Summary (PTO-413), Paper No./Mail Date. _____.	

  

/BIJAN MAPAR/ Primary Examiner, Art Unit 2128	
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## **DETAILED ACTION**

### ***Notice of Pre-AIA or AIA Status***

The present application is being examined under the pre-AIA first to invent provisions.

### ***Information Disclosure Statement***

The information disclosure statement (IDS) submitted on 5/29/2020 was filed after the mailing date of the Notice of Allowance on 4/8/2020. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

The information disclosure statement (IDS) submitted on 7/28/2020 was filed after the mailing date of the Notice of Allowance on 4/8/2020. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

### ***Allowable Subject Matter***

Claims 1-20 are allowed.

The following is an examiner's statement of reasons for allowance:

The reasons for allowance provided in the prior action remain applicable. They are reproduced below for convenience:

The claims are in effect equivalent to those recited in application 16/176,474 (subject of the newly filed terminal disclaimer), which was also indicated allowable. The reasoning set forth in that application applies equally to this application:

The claims as recited distinguish over the art of record, and the art as a whole via reciting the updating scans to be directed to scenarios where the intra-oral cavity (e.g. dentition) is modified in between the scans (e.g. subjected to a surface preparation). This distinguishes over the cited references (WIPO publication WO 2007084647 A2 and US Pre-Grant Publications 20070172112, 20020006217,

20070236494, and 20050283065), which deal only with recapturing scans of a static intra-oral region.

The scanning methodology disclosed by the closest prior art, the Kriveshko WIPO reference (WO 2007084647 A2), does not provide for (or suggest) generating a composite scan after intra-oral modifications are made. Rather, it teaches away from this, teaching that entirely new scans should be made.

In ¶121-122, the Kriveshko WIPO reference (WO 2007084647 A2) describes an iterative approach to managing a preparation where "a dentist may repeat steps of tooth removal and scanning until a satisfactory surface preparation is achieved." This has an important distinction from the instant applications' claims, which provide a composite scan based on both a first (initial) and second (post-change) scan. In the Kriveshko references new scan is being gathered each time a preparation is made. The user interface allows for rescanning areas that are subject to errors, equivalent to modifying the first scan with data, but does not disclose that this can be done while the intra-oral region is modified (e.g. via a surface preparation). Rather, the rescanning is done to correct errors with the first scan, and the iterative process disclosed by the reference involves complete rescans (generating an entirely new scan rather than generating a composite scan by using a second scan to update the changed region from the first). See for example the Kriveshko WIPO reference at ¶119, where it discusses the interface used in this process: "The user interface may be adapted for use by a dentist (or dental laboratory) to review a surface preparation... in this mode, new data is not being acquired. Rather, a stored model may be processed." This explicitly teaches away from the claimed process, which data is newly captured and composited to update for the intra-oral modification.

In view of the above, with the Kriveshko WIPO reference representing the closest prior art, the claims distinguish over the art as a whole. The claims further recite eligible subject matter under 35 USC 101, as under the most recent guidance (2019 PEG) they are not directed to a judicial exception.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BIJAN MAPAR whose telephone number is (571)270-3674. The examiner can normally be reached on Monday - Thursday, 11:00-8:30.

Examiner interviews are available via telephone, in-person, and video conferencing using a USPTO supplied web-based collaboration tool. To schedule an interview, applicant is encouraged to use the USPTO Automated Interview Request (AIR) at <http://www.uspto.gov/interviewpractice>.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Omar F Fernandez Rivas can be reached on 5712722589. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <https://ppair-my.uspto.gov/pair/PrivatePair>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/BIJAN MAPAR/  
Primary Examiner, Art Unit 2128